Comments on the FCC NPRM Broadband Docket No. 10-235

The following comments may be attributed to Agape Church, Inc., licensee of TV stations KVTN-DT, Pine Bluff, AR, KVTH-DT, Hot Springs, AR and KVTJ-DT, Jonesboro, AR. These stations operate under the branding of "VTN", The Victory Television Network, and are hereafter identified collectively as "VTN".

Spectrum Allocations

Opening up the U.S. Frequency Allocations in Section 2.106 that are currently reserved mostly for broadcast television for flexible use (see 10-196, par. 14) without any technical standards to insure interference protection is dangerous to the currently licensed broadcaster.

The TV broadcasters have technical regulations that protect each other from possible interference and or have acceptable limits of interference on a very low percentage of the served population. There are no technical standards proposed or mentioned in this NPRM; this will lead to an unknown level of interference on an unknown percentage of the population. In all good engineering practice and conscience VTN cannot agree with this proposed Spectrum Allocation in this NPRM.

VTN strongly recommends that the Commission work out an agreeable set of technical standards with all of the TV broadcasters and other interested groups before this proposed portion of the NPRM moves forward towards final enactment.

VTN's key concerns on interference protection are as follows:

- OTA Viewers on the edge and outside of the coverage contour are more subject to interfering signals due to their use of high gain antennas and amplifiers and Tropospheric conditions.
- MVPDs that are on the edge and outside of the coverage contour are more subject to interfering signals due to their use of high gain antennas and amplifiers and Tropospheric conditions. This would affect a significant amount of the VTN viewing homes.
- Variable Tropospheric conditions that can and will cause the licensed frequencies to travel long distances and create co-channel interference. VTN has observed clear reception of other channels that are over 200 miles away.
- Signal to Noise Ratios will be affected negatively. VTN has observed that most of the reception issues that OTA viewers and cable systems have are in direct proportion to the S/N ratios. Adding more licensed users to the spectrum will only cause the S/N ratios to decrease thus the outer edge reception would shrink causing a significant loss of viewers.

VTNs income and its paid programmers are dependent on viewer support and the key concerns listed above could and would severely affect the viability of the entire network. These legitimate concerns would then go against the Commission's goal of not harming the localized and unique ("niche") programming that VTN carries on these stations.

Shared Channels

The NPRM states, "We envision, consistent with the Plan, that two stations could generally broadcast one primary HD video stream each over a shared six-megahertz channel or more than two stations broadcasting in SD (not HD) could share a six-megahertz channel." The NPRM refers back to the Plan (NBP), which states, "Two stations ***could*** generally broadcast one primary HD video stream each over a shared six-megahertz channel." (emphasis ours)

To that last statement an endnote is added, that states in part:

"***Each station may not have sufficient capacity*** to maintain current HD picture quality if both are transmitting highly complex HD programming simultaneously. ***Such incidences occur infrequently, however.*** OBI, Spectrum Reclamation. ***Furthermore, any such infrequent incidences would not impact the quality of signals delivered to MVPDs that receive broadcast TV signals through direct fiber or microwave feeds***—approximately 50% of cable headends and 27% of DirecTV local collection facilities. Letter from Jane E. Mago, Executive Vice President and General Counsel, Legal and Regulatory Affairs, National Association of Broadcasters, to Blair Levin, Executive Director, OBI, FCC, GN Docket Nos. 09-47, 09-51, 09-137 (Dec. 23, 2009) at 1. Stations have several options to mitigate the potential impact to over-the-air signal quality, including statistical multiplexing, bit grooming, and rate shaping." (emphasis ours)

The NPRM goes on to mention that the Engineering Forum participants expressed concerns about this and the Commission wants to hear comments regarding these matters.

The argument presented above appears to go like this:

1) 2 HD streams in one channel *could* work
2) Even if it doesn't work, such failure will only occur infrequently
3) Even if failures occur the impact to viewers will be minimized because half of nationwide MVPD's get their signals from direct microwave or fiber.

We contend that points 1 and 2 are dogmatic assertions and conjectural, supported by anecdotal evidence only. We find it unlikely that it can be known at this point whether failures will occur infrequently, since a whole host of variables, including the particular bit rates in question, the particular programming in question, the particular equipment in question (stat muxes, etc.), and probably even reception quality in question, will affect whether one or the other's video quality will degrade.

Point 3 may be true nationally; however, we contend that 50% of MVPD viewers suffering a degraded picture is nothing to just gloss over, as the NBP does. Additionally, it is not true at the regional and local levels. VTN's delivery to MVPD's is almost exclusively over the air—97% of cabled communities and 72% by population receive VTN's programming by way of OTA headends.

Additionally, this NPRM is filled with conjecture. 28 times in 22 pages the word "could" appears (and we did not count additional words such as "may" that indicate guessing). We contend that it is rich on promises and poor on evidence. It is our understanding that the Engineering Forum told the Commission that they can't do many of the things that are suggested.

The proposed shared channels portion of this NPRM would not benefit VTN and would only raise the possibility of losing viewers. VTN has three stations that have towers that are located multiple miles from any of the other local stations due to past interference protections and coverage patterns. Trying to relocate any of the VTN channels to other local TV channels and towers would be a devastating financial burden. The cost would be in obtaining STL paths if available, equipment, and the known loss of viewers and supporters due to the major coverage changes. None of the other local channels have the same coverage patterns that the VTN stations have. On top of that VTN would not be able to pursue its long term options and goals of utilizing the possible sub-channels for unique programming.

Another fact is that VTN had raise millions of dollars from the viewers to just meet the digital conversion deadline in 2009 and still needs millions more to fully convert its STL links and go HD.. It will take a few more years to achieve the goals that we have for converting all of the necessary equipment to digital and HD along with any additional sub channels.